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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,760	08/14/2001	Scott E. Hrastar	191910-1111	9487

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Scientific Atlanta, Inc.
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 01/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/929,760

Applicant(s)
Scott E. Hrastar et al.

Examiner
Melur. Ramakrishnaiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 14, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 20) ☐ Other:

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Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,324,267 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application claims the following: "In a cable data delivery for delivering digital data to a host location upon a subscriber initiated request, apparatus for authenticating that the subscriber is authorized to use the network, the apparatus comprising: network manager a validation agent, the host location including a telephone dial up device for the subscriber to log on to the network and connect to the network manager using the identification information, wherein the network validation agent authorizes the subscriber to use the network in accordance with a

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comparison of the identification information to the authorized users" which is an obvious variation of claim 1 of U.S. Patent No. 6,324,267 B1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohammed (US PAT: 5,894,479) in view of Winter et al. (US PAT: 4,814,972, hereinafter Winter).

Regarding claim 1, Mohammed discloses a cable data delivery for delivering digital data to a host location upon a subscriber initiated request, apparatus for authenticating that the subscriber is authorized to use the network, the apparatus comprising: network manager (reads on POP SERVER 38) and a validation agent (reads on CPU 40, fig. 1, col. 6 lines 24-38), the host location (22, fig. 1) including a telephone dial up device (reads on 20, fig. 1) for the subscriber to log on to the network and connect to the network manager using the identification information, wherein the network validation agent (40, fig. 1) authorizes the subscriber to use the network in accordance with a comparison of the identification information to the authorized users (col. 5 lines 56-58, col. 6 lines 24-38).

Regarding claims 2-6, Mohammed further teaches the following: identification includes: a subscriber USERID, a subscriber password (col. 6 lines 35-38), validation agent (40) authorizes

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the subscriber to use the network in accordance with a comparison of the subscriber USERID and the subscriber password to USERIDS and passwords (this is implicit in that reference teaches log in information including password and userid, note: col. 5 lines 56-58, col. 6 lines 24-38), dial up device includes cable data receiver (28, fig. 1) for receiving the digital data (col. 5 lines 34-43).

Mohammed differs from claims 1, 4, 5 in that he does not explicitly teach database for keeping USERIDS and password for authorized users.

However, Winter discloses method and videotex apparatus for fast access of remotely located information which teaches the following: database for keeping USERIDS and password for authorized users (20, fig. 1, col. 3 lines 8-22, col. 8 lines 33-60)

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Mohammed's system to provide for the following: database for keeping USERIDS and password for authorized users as this arrangement would be essential for validating and authenticating users in order to access network resources as taught by Winter.

Regarding claims 7-9, Mohammed does not teach the following: call up device is uniquely identify by an electronic identifying number included in database, validation agent authorizes the call up device to receive digital data in accordance with comparison of the identifying number of the call up device with the identifying numbers stored in the database.

However, Winter discloses method and videotex apparatus for fast access of remotely located information which teaches the following: call up device (20, fig. 1, col. 3 lines 8-22) is uniquely identify by an electronic identifying number included in database, validation agent

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authorizes the call up device to receive digital data in accordance with comparison of the identifying number of the call up device with the identifying numbers stored in the database (col. 8 lines 33-60).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Mohammed's system to provide for the following: call up device is uniquely identify by an electronic identifying number included in database, validation agent authorizes the call up device to receive digital data in accordance with comparison of the identifying number of the call up device with the identifying numbers stored in the database as this arrangement would aid in determining the type of the terminal associated with the system among large number of different terminals which access the system as taught by Winter (col. 11 lines 35-68).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on Monday to Friday from 7 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708. The fax phone number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

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6. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-6306, (for formal communications intended for entry)

Or:

(703) 305-9508 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).


Melur. Ramakrishnaiah

PATENT EXAMINER

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